

Application No. 09/995,483
Amendment Date August 15, 2003
Reply to Office Action of April 15, 2003

REMARKS/ARGUMENTS

The above amendments and these remarks are responsive to the Office Action mailed on April 15, 2003. Claims 2, 8, 18, 22, 24, 25, 26, 31, 32, 37, 40, 43, 44, 47, 50 and 54 have been amended for clarity. Claim 57 has been added and is directed to subject matter disclosed in the application as originally filed. No new matter has been added. Claims 1-57 are now pending in this application. Reconsideration on the basis of the above amendments and remarks below is kindly requested.

The Examiner objected to the Declaration. A Supplemental Declaration is being submitted concurrently herewith to overcome this objection.

The original patent is being surrendered herein.

The Examiner objected to the Specification as failure to provide proper antecedent basis for the phrase "an annular section defining (or forming) an opening". Applicant respectfully disagrees. On column 5, lines 38-45 an insert as for example a disc is disclosed having an opening 310 formed through the thickness of the disc. Such a disc is disclosed on at least Figures 7, 11 and 12. Consequently, the portion of the section of the disc which surrounds or defines the opening 310 of the disc has to be an annular section. As such, applicant submits that support for an annular section defining or forming an opening is found in the specification as originally filed.

The Examiner objected to claim 43 based on informality. Claim 43 has been amended to overcome this objection.

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The Examiner rejected claims 43-56 under 35 USC §112, second paragraph as being indefinite in that it is not clear how a groove can be formed on the annular section since the annular section forms the opening. The claims have been amended to now require that the annular section defines the opening so as to clearly distinguish that the annular section is the portion or section surrounding the opening. As such, applicant submits that the rejection to claims 43-56 under 35 USC §112 have been overcome.

The Examiner rejected claims 43, 45 and 46 under 35 USC §102(b) as being anticipated by Luczak, et al., U.S. Patent No. 5,717,276. Claim 43 has now been amended and requires an insert having a groove formed on a first surface of the insert and extending from an opening of the insert. The claim also requires that "the groove extends to an exterior of the rim when the cap is capping the bottle, and wherein the opening extends from the first surface to the second surface" of the annular section of the insert. Luczak appears to disclose an insert having grooves. However, the grooves disclosed in Luczak do not extend to an exterior of a bottle rim when the cap is capping the bottle as required by claim 43. As such, applicant submits that claim 43 as now amended is not anticipated by Luczak.

Claims 45 and 46 are dependent from claim 43. Claim 43 is now believed to be in the condition for allowance. As such, applicant submits that claims 45 and 46 are also in condition for allowance as being dependent from an allowable base claim and for the additional limitations they contain therein.

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The Examiner rejected claims 43, 44 and 46 under 35 USC §102(b) as being anticipated by Mineno, JP 7-96960. Claim 43 requires that the opening extends from a first surface to the second surface of the annular section. Mineno discloses what appears to be an insert having a depression and not an opening that extends from a first surface to a second surface of the annular section of the insert as required by claim 43. As such, applicant submit that Minemo does not anticipate claim 43.

Claims 44 and 46 are dependent from claim 43. As such, applicant submits that claims 44 and 46 are also allowable as being dependent from an allowable base claim and for the additional limitations they contain therein.

The Examiner rejected claims 8 and 9 under 35 USC §102(b) over Montgomery, U.S. Patent No. 5,785,196. Claim 8 as now amended is directed to a bottle cap comprising "a groove formed on the inner surface of the top portion, said groove extending chordwise from a first point adjacent a first location on the annular wall to a second point adjacent a second location different from the first location on the annular wall." Montgomery, according to the Examiner, discloses a groove 44 extending chordwise from a first point adjacent the annular wall to a second point adjacent to the annular wall where both points are adjacent to the same location or portion of the wall. Montgomery does not disclose a groove that extends from a first point adjacent to a first location on the annular wall to a second point adjacent to a second location different from the first location of the annular wall as required by claim 8. As

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such, applicant submits that claim 8 as now amended is not anticipated by Montgomery.

Claim 9 is dependent from claim 8. Claim 8 is now believed to be in condition for allowance. As such, applicant submits that claim 9 is also in condition for allowance as being dependent from an allowable base claim and for the additional limitations it contains therein.

It should be noted that claims 2, 8, 18, 22, 24, 25, 26, 31, 32, 35, 37, 40 and 41-56 which have been either amended or added in this reissue application find support in the application as originally filed. Claims 2, 18, 24-26, 31, 32, 35, 37 and 40 have been amended for clarity. Claim 2 finds support in column 3, lines 24-63. Claim 8 finds support in column 4, lines 8-27. Claim 18 finds support in column 4, lines 8-27. Claim 18 finds support in column 4, lines 23-27. Claim 23 finds support on page 3, line 24 to page 4, line 7. Claim 24 finds support on page 4, lines 23-27. Claim 25 finds support on column 4, lines 29-39. Claims 26, 31, 32, 35 and 37 find support on column 5, lines 8-52. Claim 40 finds support on column 5, lines 8-11. Claims 41 and 42 find support on column 5, lines 38-41. Claims 43-56 find support on column 5, lines 8-52.

The rejections and objections to call claims pending in this applications are believed to have been overcome and this application is now believed to have been in condition for allowance. Should the Examiner have any remaining questions or concerns about the allowability of this application, the

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Examiner is kindly requested to call the undersigned attorney to discuss them.

Respectfully submitted,
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